

REMARKS

Claim 1 has been amended by incorporating the subject matter of claim 5 into it. Accordingly, claim 5 has been canceled.

Claims 32 and 34 have been amended in a non-limiting manner to add spaces between words in these claims. Applicants respectfully submit that these amendments render moot the objections to these claims, and that the objections should be withdrawn.

Claims 1-4 and 6-55 are currently pending, although claims 7, 9, 16-18 and 49-54 have been withdrawn from consideration. Upon indication of allowable subject matter, Applicants intend to seek rejoinder of withdrawn claims as appropriate.

The Office Action rejected the pending claims under 35 U.S.C. §112, second paragraph, asserting that the claims are indefinite. In view of the following comments, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claim 34 has been amended in a non-limiting manner to delete the phrase “especially of.” Applicants respectfully submit that this amendment has addressed the concerns behind the §112 rejection of claim 34, thereby rendering the rejection moot.

Furthermore, Applicants note that the Examiner is correct: (1) R₇ can be at any location of the structure; and (2) an apolar oil is a non-polar oil.

Also, Applicants respectfully submit that the phrase “multilayer interference structure” when used in connection with goniochromatic pigments is clear --- this is evidenced by at least U.S. patent 6,663,852 (in particular, claim 1 which contains this phrase when referring to goniochromatic pigments).

Finally, the pending claims are directed to two separately packaged compositions. The compositions, upon later combination, yield the unique effects associated with invention products.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the §112 rejections.

The Office Action also rejected the pending claims as obvious under 35 U.S.C. § 103 over U.S. patents 6,627,121 (“Krongauz”), 6,123,952 (“Lagrange”) and 6,369,147 (“Polonka”). In view of the following comments, Applicants respectfully request reconsideration and withdrawal of this rejection.

The claimed invention relates to a cosmetic product comprising at least a first composition and a second composition, the first composition comprising at least one first dye in a physiologically acceptable medium, the second composition comprising at least one second dye in a physiologically acceptable medium, the first dye being photochromic and the second dye being at least one goniochromatic coloring agent, wherein the first dye is a naphthopyran derivative of the 2H-naphtho[2,1-b]pyran type of formula (I) or the 3H-naphtho[2,1-b]pyran type of formula (II). When the separate compositions of the invention products are combined, the resulting combination can provide a novel dynamic effect in terms of color and radiance. For example, the combination can rapidly and reversibly change shade and/or radiance effect, the change often times being sufficiently significant as to be noticeable with the naked eye.

The art upon which the Office Action has relied neither teaches nor suggests the invention products, or any of these benefits associated with the invention products.

In short, the invention products and their benefits could not have been expected from the combination of references cited by the Office Action.

Regarding Krongauz, Krongauz (as recognized by the Office Action) neither teaches nor suggests placing his dyes into cosmetic compositions. Rather, Krongauz teaches incorporating his dyes into polymeric materials such as plastic articles or optical lenses. (See, paragraph bridging cols. 2 and 3). Consequently, Krongauz relates to a different field than the present invention. Given this, one skilled in the art would not have looked to guidance from Krongauz when attempting to formulate a cosmetic product. For at least this reason, Applicants respectfully submit that the pending rejections of the pending claims directed to cosmetic compositions based upon non-analogous art like Krongauz are improper and should be withdrawn.

Lagrange does not compensate for Krongauz's fatal deficiencies. Lagrange states that his compositions contain only thermally irreversible photochromic compounds, and specifically excludes reversible photochromic compounds from his compositions. (See, col. 2, lines 59-62). This is consistent with the purpose of Lagrange's compositions which is to provide cosmetic compositions which exhibit little or no color change, whether the composition is exposed to UV radiation or not. (See, col. 2, lines 20-25). Moreover, Lagrange's dyes are structurally very different from the claimed dyes. In view of this, it is clear that Krongauz and Lagrange cannot teach or suggest the claimed invention --- no motivation would have existed to use one of Krongauz's reversible chromatic compounds in Lagrange's compositions given that Lagrange states that his compositions can contain only irreversible photochromic compounds, compounds which are very different structurally from the claimed dyes,

let alone to use such different types of dyes in separate compositions as required by the claimed invention. In fact, such a combination would have rendered Lagrange's compositions unsuitable for their intended purpose. Under such circumstances, no motivation could have existed to combine Krongauz and Lagrange. See MPEP § 2143.01.

Similarly, Polonka does not compensate for Krongauz's and Lagrange's fatal deficiencies. Polonka, like Krongauz, relates to a field other than cosmetics and, thus, would not have been considered when formulating a cosmetic composition. Rejections based upon such non-analogous art Polonka are improper. At any rate, Polonka merely relates to goniochromatic pigments, and neither teaches nor suggests the required naphthopyran derivatives or combining the required photochromic dyes with the required goniochromatic coloring agents, whether the combination be in a single composition or separate compositions as required by the present invention. Thus, Polonka cannot compensate for the other references deficiencies.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the §103 rejections.

Application No. 10/687,632
Response to Office Action dated May 10, 2007

Applicants believe that the present application is in condition for allowance.

Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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